

HOUSE BILL 92

D4

2lr1194

By: **Delegates Simmons and Dumais**

Introduced and read first time: January 18, 2012

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Domestic Violence – Shielding – Complete Removal of Information from**
3 **Public Web Site**

4 FOR the purpose of clarifying the definition of “shielding” in certain provisions
5 relating to the removal from the public Web site maintained by the Maryland
6 Judiciary of certain court records concerning domestic violence; and generally
7 relating to domestic violence.

8 BY repealing and reenacting, with amendments,
9 Article – Family Law
10 Section 4–512
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2011 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Family Law**

16 4–512.

17 (a) (1) In this section the following words have the meanings indicated.

18 (2) (i) “Court record” means an official record of a court about a
19 proceeding that the clerk of a court or other court personnel keeps.

20 (ii) “Court record” includes:

21 1. an index, a docket entry, a petition, a memorandum, a
22 transcription of proceedings, an electronic recording, an order, and a judgment; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 2. any electronic information about a proceeding on the
2 website maintained by the Maryland Judiciary.

3 (3) “Shield” means to remove information from public inspection in
4 accordance with this section.

5 (4) “Shielding” means:

6 (i) with respect to a record kept in a courthouse, removing to a
7 separate secure area to which persons who do not have a legitimate reason for access
8 are denied access; and

9 (ii) with respect to electronic information about a proceeding on
10 the website maintained by the Maryland Judiciary, **COMPLETELY** removing [the] **ALL**
11 information **CONCERNING THE PROCEEDING, INCLUDING THE NAMES OF THE**
12 **PARTIES, AND ANY REFERENCE TO THE PROCEEDING** from the public website.

13 (5) “Victim services provider” means a nonprofit organization that has
14 been authorized by the Governor’s Office of Crime Control and Prevention or the
15 Department of Human Services to have access to records of shielded protective orders
16 in order to assist victims of abuse.

17 (b) If a petition filed under this subtitle is denied or dismissed at the interim,
18 temporary, or final protective order stage of a proceeding under this subtitle, the
19 respondent may file a written request to shield all court records relating to the
20 proceeding.

21 (c) A request for shielding under this section may not be filed within 3 years
22 after the denial or dismissal of the petition, unless the respondent files with the
23 request a general waiver and release of all the respondent’s tort claims related to the
24 proceeding under this subtitle.

25 (d) (1) On the filing of a request for shielding under this section, the court
26 shall schedule a hearing on the request.

27 (2) The court shall give notice of the hearing to the petitioner or the
28 petitioner’s counsel of record.

29 (3) Except as provided in paragraphs (4) and (5) of this subsection,
30 after the hearing, the court shall order the shielding of all court records relating to the
31 proceeding if the court finds:

32 (i) that the petition was denied or dismissed at the interim,
33 temporary, or final protective order stage of the proceeding;

1 (ii) that a final protective order or peace order has not been
2 previously issued against the respondent in a proceeding between the petitioner and
3 the respondent; and

4 (iii) that none of the following are pending at the time of the
5 hearing:

6 1. an interim or temporary protective order or peace
7 order issued against the respondent in a proceeding between the petitioner and the
8 respondent; or

9 2. a criminal charge against the respondent arising from
10 alleged abuse against the petitioner.

11 (4) (i) If the petitioner appears at the shielding hearing and objects
12 to the shielding, the court may, for good cause, deny the shielding.

13 (ii) In determining whether there is good cause to grant the
14 request to shield court records, the court shall balance the privacy of the respondent
15 and potential danger of adverse consequences to the respondent against the potential
16 risk of future harm and danger to the petitioner and the community.

17 (5) Information about the proceeding may not be removed from the
18 Domestic Violence Central Repository.

19 (e) (1) This section does not preclude the following persons from accessing
20 a shielded record for a legitimate reason:

21 (i) a law enforcement officer;

22 (ii) an attorney who represents or has represented the
23 petitioner or the respondent in a proceeding;

24 (iii) a State's Attorney;

25 (iv) an employee of a local department; or

26 (v) a victim services provider.

27 (2) (i) A person not listed in paragraph (1) of this subsection may
28 subpoena, or file a motion for access to, a record shielded under this section.

29 (ii) If the court finds that the person has a legitimate reason for
30 access, the court may grant the person access to the shielded record under the terms
31 and conditions that the court determines.

1 (iii) In ruling on a motion under this paragraph, the court shall
2 balance the person's need for access to the record with the respondent's right to
3 privacy and the potential harm of unwarranted adverse consequences to the
4 respondent that the disclosure may create.

5 (f) Within 60 days after entry of an order under subsection (d)(3) of this
6 section, each custodian of court records that are subject to the order of shielding shall
7 advise in writing the court and the respondent of compliance with the order.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2012.